G. R. S. IX-5]

Previous references.

File No. 13-20

Serial Nos. 1-2

192 0.

(Courts.)

Later references.

P

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Two

Part B for September 1920

SUBJECT.

Appeal against the order of acquittal passed by the Second Grade Magistrate, Tarikere, in C.C. No. 60 of 19-20.

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812) To the District Magistrate, Kadur
" District Magistrates of other Districts.
" Conservator of Forests.
No. G. 6341-7 dt. 17.9.20.

Various orders in the matter of preferring an appeal against the order of acquittal passed in a case wherein the accused was prosecuted for grazing goats in Amrut Mahal Kaval under the Rules.

WD 2253-GPB—20,000—14-6-20

G. R. S. III—1] 1920.

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 3-20.

FILE HEADING.

Appeal against the order of acquittal passed by the Second grade Magistrate, Tamlong, in C.C. no. 60 of 19-20.

From

The District Magistrate, Kadru District.

No. 236/19-20 Dated 7th July 1920 Received on 12-7-20.

Diary No. 521	Enclos. 1 + 1/~~Spare Copies~~ Records	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards a letter dt 21st June 1920 with its enclosures received from the District Legal-Officer, Kadru Dn. & the opinion of the Govt. Advocate re proposing an appeal against the order of acquittal passed by the Second grade Magistrate Tamlong, in C.C. no 60 of 19-20, & requests Government Sanction to proposing an appeal in the Case to the Chief Court.

NOTES AND ORDERS.

Asst. Secretary's order on the Paper under disposal:-

"Appeal expires on 15-7-20. Please put up draft Sanctioning & bring up in person"

Submitted accordingly with a draft (Hnd). DM

12/7/1920

The time allowed for appeal seems to be 6 months; vide

NOTES—First Sheet.

General and Revenue Secretariat.

Ch File No. 3 of 1920.

Serial No.

Schedule I (Down 2) no. 157, Limitation Regulation.

Ans 12/7

(2) Please quote the rules on the subject. The report says in the proceedings that it is nowhere laid down that no one should graze cattle in Amrita Mahal Kavals. Is this correct?

D. M. (2/7)

After consultation in the Rev. Secty, this note is prepared.

(1) The Magistrate in acquitting the accused has mainly relied upon rule 8 of the rules for the management of the District Forests. But the whole question depends upon the application of Clause 13 Sect 2 of the Forest rules which defines the "District Forest". Amrita Mahal Kavals seem to come within this. Chapter IV Sec 35 (iii), Chap III (Management of Dis Forests) Sect 3 & Sec 6 will have to be read together to understand the 'reserved land' and notification thereunder. It is ascertained from the Forest Section that there is no Specific notification declaring Amrita Mahals as Reserve Forest lands under Sec 6 Chap III. But, though strictly speaking a conviction is not possible under rule 8, Ch III (Management of District Forests) as relied upon by the Ranger in the present case, the case

NOTE—Contn. sheet.

Serial No.

1

Seems to come under rule 9 in the same Chapter & under ~~a Conviction~~ Non payment of the accused may be Convicted as distinctly laid down in rule 15 in the same Chapter.

21/7/10.

This note is not initialled, X H: A.

(2) Under the terms of the G.O. of 1904 Amritamahal cases seem to come under "District Forests" within the meaning of S. 2 cl: (13) of the Forest Regn.

The Govt. Advt: has stated that this is fit case for appeals.

(3) Draft G.O. sub'd for consideration.

D. M. 20/7

III Member

752 30-7-10

I do not think that the G.O. of 04 declaring that Amrit Mahal Lands are District Forests ~~should be cancelled~~ in accordance with Land Land-Lands Clause 13 Section 2, all Lands that have been Comprised in Villages & Taluk Forests can be regarded as included in District Forests if they are not set apart for Communal or any public purposes at the Survey Settlement - the question that is whether Lands set apart as Amrit Mahal Lands are for a public purpose or not - the Amrit Mahal dept is a department managing the State Lands

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

C/o File No. 13 of 1920. (4

Serial No.

Sub Assist Medical Servants are public servants and so it cannot be said that Sub A.M. dept does not serve a public purpose — The rules framed for the management of Sub dispensaries empower (the Sub pramukh) Sub Assistant Medical Servants for purposes of the rules — Now these Rules have declared to be reserved under rule 6 of the rules — It seems some thing must be wrong in my statement if quite correct — The fact however may further be enquired —

Sub
30/7

9) Forwarded U.O. with compliments for favour of opinion to the Govt Advocate.

B.O.
D Mahadevan
Dy Chief Secy to Govt
3/8/20

U.O. No. 9-20
Protection
23.8.1920.

U.O. No. 10/20-21
4/8/1920

9) Please send me the file in which the order of 1904 was framed — without it it is difficult to answer the reference

4.8.20

NOTE—Contn. sheet.

5

9) Please put up the file required

D.M.
5/8

G. R. S. III-2]

General and Revenue Secretariat.

File No. 13 of 1911.

Serial No.

11) The file is taken & put-up in connection with the question of amending certain rules regarding Arms-Licence granting areas, in P.P. Branch, Military Section (Please vide the requisite slip put-up enclosed). It is also ascertained that the file will not be available now, since it is reported that it has to be ~~separated~~ submitted to the Council ~~Section~~. A spare copy of the printed G.O in question is put-up.

Subd.

12) The may be ascertained from the records section wherein the file cannot be traced for the perusal of the Govt Advocate.

13) To the Supdt P.P. Br, for kindly sending the file if it can be spared

CHIEF SECRETARIAT
POLITICAL BRANCH
1 AUG. 1920

14) The file required L.F. 375 of 92, Lbl 6-5-6 put-up.

13/8/20

Subd with reference to para 10 supra

Govt Advocate

NOTE—Contn. sheet.

Serial No.

U.S.I

No. 1921 | 1920-21

20. 9. 19

Ch Sec. Off
23 AUG

Thanks for the file of 1904 which has given me much help in the Consideration of this Question

It seems to me that Amrit mahal Kavals do Constitute 'District Forests' within the meaning of Sec 2 cl(13) of the Forest Regn. The term 'District Forests' as defined therein "includes all land at the disposal of Govt not included within the limits of any State or Village Forest not assigned at the Survey Settlement as free ~~grazing~~ grazing ground or for any other public or Communal purpose,

Provided that ..... fit"

Amrit mahal Kavals are not lands assigned at the Survey Settlement as free grazing ground or for any other public or Communal purpose. The term 'public' is used here not as synonymous with Government but as connoting something wider than but akin to 'Communal' that is to say a purpose in which the general Community Constituting the public is interested. There is however this difference that while the area included in District Forests is within

NOTE—Contn. sheet.

Serial No.

The Executive Control of the D.t Com.rs of Districts & is managed by the Revenue Dept. The management of amrit Mahal Kavals is vested in a separate Dept Establishment for that purpose & included within the administrative Control of the Chief Comm.r.

The Question for Consideration now is whether the grazing of goats in an amrit Mahal Kaval a forest offence So as to render the person in whose charge the herd was liable to be prosecuted under the Forest Regn. or the rules framed thereunder. Any person that trespasses or pastures Cattle or permits Cattle to trespass in a State Forest is liable under sec 24 of the Forest Regn. to the penalty imposed therein. But in regard to District Forests sec 35 only Enables Govt. to make rules inter alia for the regulation or prohibition of the pasturing of Cattle & for prescribing a penalty for any infringement of the rules. The Regn

(See Cl viii of sec 35)

Serial No.

itself does not as in the case of State Forest make the pasturing [of cattle] in a Dt. Forest punishable. The rules framed by Govt. under Sec 35 for the regulation of the pasturage in lands included within the area of District Forest Expressly Exclude Amrit Mahal Kavals from their purview. I take it that Amrit Mahal Kavals are not Constituted reserved areas under rule 6 of the rules. In these circumstances the Magl's finding may be correct if he meant to say that grazing Cattle in an Amrit Mahal Kaval is not a forest offence. And inasmuch as the accused was prosecuted for a forest offence under Rule 15 of the Rules framed under Sec 35 of the Forest Reg^n. the order of acquittal so far as that offence was concerned seems to be correct. The accused will however be liable for mischief under the Penal Code or under para 2 of Sec 26 of the Cattle Trespass Act if by notif^n published under that

NOTE—Contn. sheet.

S21

G. R S. III-2]

General and Revenue Secretariat. | Ch File No. 13 of 1920.

Serial No.

Section amrit mahal Kavals have been protected against damage by Cattle generally. But he has not been prosecuted for any of these offences & it is perhaps unnecessary to look at this case in any aspect other than that in which it was presented to the Magte.

In the file of papers sent by the Dt Magte there was only a short Extract from the order of 1904 which prima facie seemed to me to justify the view taken of the District Forest officer. On the complete material now made available I have reason to change my opinion.

Ramakrishna Ayer
25.8.20

Ch 25/8

Subd for orders with reference to para 7 above.

21/8

Subd with the opinion of the Govt Advocate who says that the case is not so strong one for appeal. If appd, the D.M. will be informed accordingly.

III Member 23/8

Pub 26/8 Draft D.M. 23/8 D.M. 24/8

1367 23.8.20

NOTE—Contn. sheet.

G. R. S. III-2.

General and Revenue Secretariat.

Ch. File No. 13 of 1920.

(10

Serial No.

Subd with a draft accordg

31/8/20

As question of interpretation of law is involved and as the District Officers are under the impression that grazing in Amrit Mahal Kavals is a forest offence, a G.O may perhaps be issued ~~issuing~~ declaring making an authoritative statement of the law on the point. If approved a revised draft will be put up.

31/8

Govt. Mearo
D. 31/8

Subd with a draft Govt. accdg

2/9/20

3/9

Mearo put up as typed draft
D. 3/9

Typed copy of the draft subd

7/9/20

7/9

Since the question involves interpretation on a point of law; a draft G.O. is subd for appl. Copies will be sent to all the Collectors.

D. M.
8/9

1690
8.9.20

III Member Appd

9/9

D. M.
9/9

NOTE—Contn. sheet.

G. R. S. III-2.

General and Revenue Secretariat.

File No. of 19 .

Serial No.

2

To

The District Magistrate, Kadur,

The District Magistrates of other Districts.

The Conservator of Forests.

No. G. 6341-4 dtd 17-9-20.

Passes orders in the matter of preferring an appeal against the order of acquittal passed in a case wherein the accused was prosecuted for grazing goats in Amrut Mahal Kaval under the Forest Rules.

SECRETARIAT
III
PROTECTION BRANCH
OCT 1920

NOTE—Contn. sheet.

DIARY No. 521

Office of the District Magistrate,
Kadur District.

Chikmagalur, Dated 7th July 1920.

No 234
6-20

From

K. MYLAR RAO, Esq., B.A., B.L.,
DISTRICT MAGISTRATE,
KADUR DISTRICT.

12 JUL 1920

To

C.S. BALASUNDARAM IYER, Esq., B.A.,
CHIEF SECRETARY TO THE GOVERNMENT OF
HIS HIGHNESS THE MAHARAJA OF MYSORE,
BANGALORE.

SIR,

I have the honour to forward herewith docket No.2030 dated the 21st June 1920 together with its enclosures received from the District Forest Officer, Kadur Division and also the copy of letter No.4 dated the 5th July 1920, from the Government Advocate furnishing his opinion that this is a fit case for preferring an appeal against the order of acquittal passed by the 2nd grade Magistrate, Tarikere, in Criminal Case No.60 of 19-20 and to request you to be so good as to obtain the sanction of Government in the matter and instruct the Government Advocate to prefer an appeal to the Chief Court. The three months time allowed for presenting the appeal expires by the 15th instant.

I have the honour to be,
Sir,
Your most obedient servant,

K Mylar Rao
District Magistrate,
Kadur District.

D.S.R.

From

The District Magistrate,

Kadur District.

To

The Chief Secretary to

the Government of His Highness

the Maharaja of Mysore,

BANGALORE

Dated

Despatched

Received

General No.

No.

Enclosure No.

SUBJECT

Letter No.4 dated 5th July. 1920 from the Government Advocate in Mysore to the District Magistrate, Kadur District.

======

In reply to your letter No.236 dated the 2nd instant, I have the honour to state that, in the circumstances brought to your notice by the District Forest Officer in his letter No.2030 dated 21st ultimo, this case is a fit one for appeal.

The enclosures received with your letter under reply are herewith returned.

&&&&&&&&&&&

" C O P Y "

H Krishna Rao

District Magistrate,

mcr Kadur District.

D.S.R.

(14

19

From

The District Forest Officer,

Kadur Division.

To

The District Magistrate,

Kadur District.

Chikmagalore.

Dated

Despatched

Received

General No.

No.

Enclosure No.

DEPUTY COMMISSIONER'S OFFICE
KADUR DISTRICT.
Date of Receipt 22/6/1920
Inward Book No. 20278

22.6.20
J.H.S.
Immediate
Bring up with
references
Dilly

Has the honour to forward herewith the entire correspondance ending with Kadur Range Officer's report No.571 dated 11-3-20 together with a copy of judgment in Criminal Case No.60\ of 19-20.on the file of the Second Class Magistrate, Tarikere, has the honour to state that the accused in this case has been acquitted on the ground that goat browzing in Amritmahal Vavals is not a criminal offence. Clause 13 of Section 2 of the Forest Regulation clearly brings the Amritmahal cases under the category of District Forests and this fact is further emphasised in para 3 of G.O.No.3371-30.L.F.375-02 dated 3-11-1904. (copy of which is herein enclosed for ready reference). The undersigned therefore requests that the Magistrate may be kindly addressed for the revision of the case.

21/6/20

District Forest Officer

Kadur Division

Proceedings of the Government of His Highness the Maharaja of Mysore.

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3. As regards the second question about Amrut Mahal Kavals " Government consider that they constitute "District Forests" within the meaning of clause 13 of Section 2 of the Forest Regulation and did constitute "District Forests" under the rules of 1873, repealed by the Forest Regulation. Amrut Mahal officers are Forest Officers within the meaning of clause (1) of section 2 of the Forest Regulation which defines a Forest Officer and they discharge many functions of a Forest Officer as laid down in the Forest Regulation thus as Amrut Mahal Kavals stand on the same basis as the Forests there can be no doubt that cattle pounds may be established in the Amrut Mahal Kavals under the control of Amrut Mahal Officers without any further action under the cattle trespass act of the Mysore Local Boards Regulation.

The rules applicable to Forest Pounds will like wise apply to Amrut Mahal Kaval's Pound.

Extract "

Sd. M.S.Rama Rao.

Conservator of Forests.

G.R.S. VI–71] 69

(16

SUBJECT Pass orders in the matter of preferring an appeal against the order of acquittal passed in a case wherein the accused was prosecuted for grazing goats in Amrit mahal Kaval, under the Forest Rules. ~~a Forest Offence~~

Diary No. of letter replied to 521

Section C

File No. 18-20.

Serial No. 2

General and Revenue Secretariat

( )

Proceedings of the Government of His Highness the Maharaja of Mysore.

, *the* 191

Date of issue 17/9.

Signed by

Read—

Letter no. 236/19-20 dt 7th July 1920, from the Dist magistrate, Kadur, forwarding a letter dt 21st June 1920 with its enclosures received from the Dist Forest Officer, Kadur ~~Division~~ and ~~together with the opinion of the Govt Advocate and~~ requesting ~~that~~ Sanction for preferring an appeal against the order of acquittal passed in C.C. no. 60 of 1919-20, on the file of the Second Grade Magistrate, Tarikere, wherein the accused was charged with an offence under Rule 15 of the rules framed under Sec 35 of the Forest Regulation for grazing goats in ~~the~~ an Amrut Mahal Kaval.

Order Thereon No 6341-9 file

Government observe that ~~agreeing with the~~ views taken by the Magistrate as regards the case, in spite of the fact that there is a declaration to the effect ~~that~~ the Amrit Mahal Kavals constitute a District Forest within the meaning of Clause 13 of-

P.T.O.

May this be

i Printed ?

ii treated as a standing order ?

ii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette Kannada Part ?

through under G.O. no 3671-80 dt 3.11.04 £7375-92

Sect 2 of the Forst Regulation, ~~in Go No 367/- Sc/ 6F 375-99 D. 3-11-1900,~~ referred the question once again to the Government Advocate for Opinion. After perusing the whole file containing Govt's dt. 13th, the Govt Advocate is of Opinion that the rules framed by Government under Sect 35 of the Forst Regulation for the regulation of the pasturage in lands included within the area of Notified Forests expressly exclude Amrut Mahal Kavals from their purview and that therefore grazing in Amrut Mahal Kavals is not a Forest Offence. The Magistrate's finding in the case is therefore correct and no appeal need be filed against his order acquitting the accused as such the present case cannot be a forest offence. Government agree with him while stating that the order of acquittal so far as that offence was concerned is correct inasmuch as the accused was prosecuted for a forest offence under rule 15 of the rules framed under Sect 35 of the Forst Regulation.

2) They further observe that in the circumstances a case against the accused for mischief under the I.P.C. or para 2 of Sect 26 of the Cattle Trespass Act, if a notification published under sd Section that Amrut Mahal Kavals have been notified against damage by Cattle generally, would have been proper

List of enclosures.

Copied by

Examined by

WD 1744—GPB—30,000—17-3-19

TD. 11/6/19

For Chief Secy

To
The District Magistrate, Kadur District (returning the enclosures received)
District Magistrate of Other Districts

The Conservator of Forests in Mysore
Copy to Dev Secy

D. 521 Ch 13-20-2

Proceedings of the Government of H.H. the Maharaja of Mysore.

****

Read:-

Letter No. 236/19-20, dated 7th July 1920, from the District Magistrate, Kadur, forwarding letter dated 21st June 1920 with its enclosures received from the District Forest Officer, Kadur District, and requesting sanction for preferring an appeal against the order of acquittal passed in Cr. C.No.60, of 1919-20, on the file of the Second Grade Magistrate, Tarikere, wherein the accused was charged with an offence under Rule 15 of the rules framed under Sec. 35 of the Forest Regulation for - grazing goats in an Amrut-Mahal kaval.

***

Order No.

Dated Bangalore, the

Government observe that though under G.O. No. 3671-80/L.F.375-92, dated 3rd November 1904, the Amrut Mahal kavals constitute a "District Forest" within the meaning of clause 13 of Section 2 of the Forest Regulation, the rules framed by Government under Section 35 of the Forest Regulation for the regulation of the pasturage in lands included within the area of District Forests, expressly exclude Amrut Mahal kavals from their purview and that therefore grazing in Amrut Mahal kavals is not a Forest offence. The Magistrate's finding in the case is therefore correct and no appeal need be filed against his order of acquittal.

2. They further observe that in the

... case against the accused
... under the Indian Penal Code, or under
... of section 26 of the Cattle Trespass
... have been proper.

Chief Secretary to Government.

The District Magistrate, Kadur District(returning the enclosures received)

All District Magistrates of other Districts.

The Conservator of Forests in Mysore.

Copy to Rev. Pectt.